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Attorneys for Defendants  
VITAMIN SHOPPE INDUSTRIES INC.  
and NUTRITION NOW, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JOHN MARCOVICH,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES INC.;  
NUTRITION NOW, INC.; and DOES 1 TO  
100,

Defendants.

) CASE NO. CV 08-1736 WDB  
)  
)

) **NOTICE OF DEFENDANTS' CONSENT**  
) **TO PARTICIPATE IN ALTERNATIVE**  
) **DISPUTE RESOLUTION AND FILING OF**  
) **STIPULATION TO PROCEED WITH**  
) **ALTERNATIVE DISPUTE RESOLUTION**

) Action Filed:

January 31, 2008

) Trial Date:

None Set

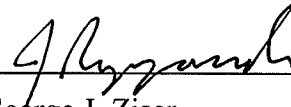
TO ALL PARTIES, TO THEIR ATTORNEYS OF RECORD AND TO THE CLERK OF  
THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that on June 19, 2008, Defendants VITAMIN SHOPPE  
INDUSTRIES INC. and NUTRITION NOW, INC, filed with this Court a stipulation to proceed  
with court ordered mediation, attached hereto as **Exhibit A**. Although counsel for defendants has  
attempted to meet and confer with plaintiff's counsel regarding participation in alternative dispute  
resolution, counsel has not received a response. As a result, defense counsel filed the stipulation  
form on our clients' behalf in order that the Court is aware that defendants are willing to proceed  
with court-appointed mediation in this matter.

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2  
3 DATED: June 19, 2008

LEWIS BRISBOIS BISGAARD & SMITH LLP

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6 By

  
George J. Ziser

Jonathan Rizzardi

Attorneys for Defendants

9 VITAMIN SHOPPE INDUSTRIES INC. and  
10 NUTRITION NOW, INC.

LEWIS BRISBOIS BISGAARD & SMITH LLP

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# EXHIBIT A

## ADR Documents

4:08-cv-01736-WDB Marcovich v. Vitamin Shoppe Industries Inc. et al

ADRMOP, E-Filing

U.S. District Court  
Northern District of California  
**Notice of Electronic Filing or Other Case Activity**

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The following transaction was received from by Ziser, George entered on 6/19/2008 3:34 PM and filed on 6/19/2008

**Case Name:** Marcovich v. Vitamin Shoppe Industries Inc. et al

**Case Number:** 4:08-cv-1736

**Filer:** Vitamin Shoppe Industries Inc.

**Document Number:** 10

**Docket Text:**

**STIPULATION and Proposed Order selecting Early Neutral Evaluation by Vitamin Shoppe Industries Inc. (Ziser, George) (Filed on 6/19/2008)**

**4:08-cv-1736 Notice has been electronically mailed to:**

Robert Alan Machado ram730@aol.com

Jonathan Robert Rizzardi rizzardi@lbbslaw.com

George John Ziser ziser@lbbslaw.com

**4:08-cv-1736 Notice has been delivered by other means to:**

Michael Thomas Morrissey  
Law Offices of Michael T. Morrissey  
1110 North First Street  
San Jose, CA 95112

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**C:\Documents and Settings\seliga\Desktop\4714\_001.pdf

**Electronic document Stamp:**

[STAMP CANDStamp\_ID=977336130 [Date=6/19/2008] [FileNumber=4476508-0]  
[02bf701a536c99a90640c795273a68c60967b614d5543558dcecaf6d3e80ab1880abf  
c7c5b14ea7c406b1f1b6248969661c39e2c91ae2a9b0f1f3332709f993a]]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN MARCOVICH

CASE NO. CV 08-1736 WDB

Plaintiff(s),

STIPULATION AND [PROPOSED]  
ORDER SELECTING ADR PROCESS

v.

VITAMIN SHOPPE INDUSTRIES, INC.,  
NUTRITION NOW, INC., and DOES 1  
through 100, inclusive

Defendant(s).

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

**Court Processes:**

- ☐ Non-binding Arbitration (ADR L.R. 4)  
☐ Early Neutral Evaluation (ENE) (ADR L.R. 5)  
☒ Mediation (ADR L.R. 6)

*(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)*

**Private Process:**

- ☐ Private ADR (please identify process and provider) \_\_\_\_\_

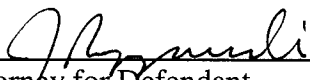
The parties agree to hold the ADR session by:

- ☒ the presumptive deadline (*The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.*)  
☐ other requested deadline \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff

Dated: June 19, 2008

  
\_\_\_\_\_  
Attorney for Defendant  
VITAMIN SHOPPE INDUSTRIES, INC. and  
NUTRITION NOW, INC.

When filing this document in ECF, please be sure to use the appropriate ADR Docket Event, e.g., "Stipulation and Proposed Order Selecting Early Neutral Evaluation."

**[PROPOSED] ORDER**

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

- ☐ Non-binding Arbitration
- ☐ Early Neutral Evaluation (ENE)
- ☐ Mediation
- ☐ Private ADR

Deadline for ADR session

- ☐ 90 days from the date of this order.
- ☐ other \_\_\_\_\_

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES

\_\_\_\_\_  
JUDGE